

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

IN RE: JALEN WALKER	:	APPEAL NO. C-090443
	:	TRIAL NO. 09-3476-X
	:	
	:	<i>JUDGMENT ENTRY.</i>
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	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.<sup>1</sup>

Jalen Walker, a minor, was charged with receiving stolen property in violation of R.C. 2913.51. Following a trial before a magistrate, Walker was adjudicated delinquent. Walker filed objections to the magistrate's decision, which were overruled by the trial court. Walker was placed on probation and ordered to complete the residential program at Hillcrest. For the following reasons, we affirm.

On February 7, 2009, Ralph Davis's home was burglarized. He came home to find that his basement window had been shattered, his backdoor had been left open, and three televisions were missing: a 50-inch Samsung, a 42-inch JVC, and a 21-inch Toshiba. Davis testified that he had paid \$1300 for the Samsung. Although Davis's wife had purchased the JVC and Toshiba on the Internet with her credit card, Davis had the owner manuals for those television sets and searched on the Internet, using the model numbers to ascertain the current value of those specific models. Based on that research, he valued the JVC at \$900 and the Toshiba at \$400.

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<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

Police Officer Darren Sellers investigated the burglary. He received a tip from an eyewitness who said that two men had carried “merchandise” from Davis’s home to the house across the street. Sellers went to that house across the street and met Walker, who had been residing there. Walker’s friend Scott Groom lived at the house also, as well as a few other people. Sellers explained to everyone at the house why he was there and determined everyone’s identity. Sellers testified that initially Walker had been uncooperative and refused to talk to him but that he eventually talked and stated his name. Sellers then checked for Walker’s name on the police database and determined that there was an outstanding warrant for Walker’s arrest. Walker was then arrested on the outstanding warrant, and after being read his rights, Walker agreed to talk with Officer Sellers about the stolen television sets.

Walker told Officer Sellers that he had been at Groom’s house on the day that Davis’s house had been burglarized. On that day, Groom had come home and asked Walker if he wanted any television sets. Walker said he had taken two television sets and given them to a “white couple” to sell for him. Walker did not know the types or sizes of the televisions he received. He did estimate the sizes to Officer Sellers by using his hands, and Officer Sellers determined that he had received a 21-inch television set and another slightly larger one.

Following the trial, the magistrate adjudicated Walker delinquent. The trial court adopted the magistrate’s decision as its own. This appeal followed.

In his first and second assignments of error, Walker contests the sufficiency and weight of the evidence underlying his adjudication. We are unpersuaded.

For a sufficiency claim, this court’s inquiry “is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.”<sup>2</sup> On the other hand, when reviewing a manifest-weight challenge, a reviewing court

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<sup>2</sup> *State v. Waddy* (1992), 63 Ohio St.3d 424, 430, 588 N.E.2d 819.

must review the entire record, weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether, in resolving the conflicts in the evidence, the trier of fact clearly lost its way and created a manifest miscarriage of justice.<sup>3</sup>

Under these assignments of error, Walker first argues that the state did not prove that he had actually possessed two of the televisions that had been stolen from Davis's home, and that it did not prove their value. We disagree. Here, an eyewitness told police that "merchandise" taken from Davis's home had been carried into the home where Walker was residing. Walker admitted to being at Groom's home the day of the burglary and admitted, on that same day, that he had taken two televisions from Groom and then given them to someone else to sell for him. Although Walker did not know the model of the televisions he had received, he described, with a show of his hands, that he had received a 21-inch television and a slightly larger one. Accordingly, there was sufficient circumstantial evidence presented to show that Walker had possessed the stolen televisions. And there was sufficient evidence to demonstrate the value of the televisions. "An owner is permitted to testify concerning the value of his property without being qualified as an expert, because he is presumed to be familiar with it from having purchased or dealt with it."<sup>4</sup> Davis testified that the value of the JVC television was \$900 and the value of the Toshiba television was \$400.

Briefly we note that, in determining the value of the television sets, the trial court properly used the replacement values versus the fair market values.<sup>5</sup>

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<sup>3</sup> *State v. Thompkins*, 78 Ohio St.3d 380, 387, 1997-Ohio-52, 678 N.E.2d 541.

<sup>4</sup> *State v. Gordon*, 2<sup>nd</sup> Dist. No. CA-22223, 2008-Ohio-3003, citing *Tokles & Son, Inc. v. Midwestern Indemnity Co.* (1992), 65 Ohio St.3d 621, 605 N.E.2d 936.

<sup>5</sup> See R.C. 2913.61(D)(2); see also, *State v. Cook* (Sept. 8, 1987), 12<sup>th</sup> Dist. No. CA87-04-009; *Gordon*, *supra*.

Finally, after reviewing the entire record and weighing the evidence, we cannot say that the trial court lost its way and created a manifest miscarriage of justice in adjudicating Walker delinquent.

The first and second assignments of error are overruled.

In his third assignment of error, Walker contends that the trial court erred by admitting Davis's testimony concerning the purchase price of the televisions sets, arguing that the testimony was unauthenticated and hearsay. But upon review of the record, we cannot say that the trial court abused its discretion in admitting Davis's testimony.<sup>6</sup> First as we have already noted, an owner is permitted to testify about the value of his property. Second, Davis gave a lay opinion as to the replacement value of the televisions sets. He was familiar with the televisions sets and had their model numbers, which he used to determine their value. Finally, Davis's testimony was not hearsay. Although he stated in his testimony that his wife had told him the purchase price of the two televisions, he did not use those prices to establish their value. Instead, he did his own research by comparing the model numbers with replacement-value figures obtained from the Internet.

The third assignment of error is overruled, and the judgment of the trial court is affirmed.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**HILDEBRANDT, P.J., SUNDERMANN and HENDON, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on April 21, 2010

per order of the Court \_\_\_\_\_.  
Presiding Judge

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<sup>6</sup> *State v. Brown* (1996), 112 Ohio App.3d 583, 601, 679 N.E.2d 361.